



**Billing Code 4310–55**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R4–ES–2013–N106]**

**[FXES1112040000–134–FF04EF2000]**

**Endangered and Threatened Wildlife and Plants; Receipt of Application for Incidental Take Permit; Availability of Proposed Low-Effect Habitat Conservation Plan and Associated Documents; Polk County, FL**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comment/information.

**SUMMARY:** We, the Fish and Wildlife Service (Service), announce the availability of an incidental take permit (ITP) application and a Habitat Conservation Plan (HCP).

Vulcan Materials Company, Florida Rock Divisions (dba Florida Rock Industries, Inc. a subsidiary of Vulcan Materials Company) (applicant), requests an ITP under the

Endangered Species Act of 1973, as amended (Act). The applicant's HCP describes the minimization and mitigation measures proposed to address the effects of the project on the sand skink and gopher tortoise. We invite written comments on the ITP application and HCP.

**DATES:** Written comments on the ITP application and HCP should be sent to the South Florida Ecological Services Office (see ADDRESSES) and should be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** See the SUPPLEMENTARY INFORMATION section below for information on how to submit your comments on the ITP application and HCP. You may obtain a copy of the ITP application and HCP by writing the South Florida Ecological Services Office, Attn: Permit number TE01724B-0, U.S. Fish and Wildlife Service, 1339 20th Street, Vero Beach, FL 32960-3559. In addition, we will make the ITP application and HCP available for public inspection by appointment during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Mr. Brian Powell, Wildlife Biologist, South Florida Ecological Services Office, Vero Beach, Florida (see ADDRESSES); telephone: 772-562-3909, extension 315.

**SUPPLEMENTARY INFORMATION:** We announce the availability of an ITP application and HCP. Vulcan Materials Company, Florida Rock Divisions (dba Florida Rock Industries, Inc., a subsidiary of Vulcan Materials Company) (applicant), requests an ITP under the Act. The applicant proposes incremental mining of sand reserves throughout the permitted mining limits of the approximately 488.35-acre project area over the life of the mine.

The site has been divided into five phases, based on the anticipated progression of the mining operation. Within Phase I, the applicant anticipates taking about 6.72 acres of breeding, feeding, and sheltering habitat for the sand skink (*Neopseps reynoldsi*), bluetail mole skink (*Eumeces egregius lividus*), and gopher tortoise (*Gopherus polyphemus*), incidental to land preparation for the expansion of existing sand mining operations located in Polk County, Florida (project). The extent of direct impacts in future phases is currently undetermined; however, based on the current USFWS guidelines, within Phases II, III, and IV, approximately 201.17 acres of the site appear to be suitable for the gopher tortoise, and approximately 130.75 acres appear to be suitable for the two skink species. The applicant's HCP describes the minimization and mitigation measures proposed to address the effects of the project on the sand skinks and gopher tortoise.

### **Applicant's Proposed Project**

We received an application from the applicant for an incidental take permit, along with a proposed habitat conservation plan (HCP). The applicant requests a 20-year permit under section 10(a)(1)(B) of the Act (87 Stat.884; 16 U.S.C. 1531 et seq.). The applicant

proposes incremental mining of sand reserves throughout the permitted mining limits of the approximately 488.35-acre project area over the life of the mine. The site has been divided into five phases, based on the anticipated progression of the mining operation. Within Phase I, the applicant anticipates taking about 6.72 acres of breeding, feeding, and sheltering habitat for the sand skink (*Neopseps reynoldsi*), bluetail mole skink (*Eumeces egregius lividus*), and gopher tortoise (*Gopherus polyphemus*), incidental to land preparation for the expansion of existing sand mining operations located in Polk County, Florida (project).

The extent of direct impacts in future phases is currently undetermined; however, based on the current USFWS guidelines, within Phases II, III, and IV, approximately 201.17 acres of the site appear to be suitable for the gopher tortoise, and approximately 130.75 acres appear to be suitable for the two skink species. The applicant's HCP describes the minimization and mitigation measures proposed to address the effects of the project on the sand skinks and gopher tortoise. In advance of the progression of the mining operations into future phases, quantitative surveys will be conducted for the skinks and gopher tortoises to determine the occupancy and extent of occupancy within these suitable areas. The completion of these surveys will be subject to the guidelines at the time the surveys are conducted. Construction activities associated with the Diamond Sand Mine will take place within Sections 3 and 4, Township 30 South, Range 28 East, Polk County, Florida.

The applicant proposes to mitigate for impacts to occupied skink habitat within Phase I by purchasing approximately 13.44 mitigation bank credits at the Tiger Creek

Conservation Bank in Polk County, Florida, a bank within the service area of skinks.

Direct impacts to occupied skink habitat within the future phases will be mitigated at the same ratio, utilizing the same mitigation bank. Additionally, the applicant proposes to mitigate for impacts to occupied gopher tortoise habitat within Phase I, as well as in future phases, by relocating gopher tortoises and any recovered eggs to a recipient site approved by the Florida Fish and Wildlife Conservation Commission.

### **Our Preliminary Determination**

The Service has made a preliminary determination that the applicant's project, including the mitigation measures, will individually and cumulatively have a minor or negligible effect on the species covered in the HCP. Therefore, issuance of the ITP is a "low-effect" action and qualifies as a categorical exclusion under the National Environmental Policy Act (NEPA) (40 CFR 1506.6), as provided by the Department of the Interior Manual (516 DM 2 Appendix 1 and 516 DM 6 Appendix 1). We base our determination that issuance of the ITP qualifies as a low-effect action on the following three criteria: (1) Implementation of the project would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) Implementation of the project would result in minor or negligible effects on other environmental values or resources; and (3) Impacts of the project, considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not result, over time, in cumulative effects to environmental values or resources that would be considered significant. As more fully explained in our

environmental action statement and associated Low Effect Screening Form, the applicants' proposed project qualifies as a "low-effect" project. This preliminary determination may be revised based on our review of public comments that we receive in response to this notice.

### **Public Comment**

If you wish to comment on the ITP application and HCP, you may submit comments by any one of the following methods:

*E-mail:* Brian\_Powell@fws.gov. Use "Attn: Permit number TE01724B-0" as your message subject line.

*Fax:* Brian Powell, (772) 562-4288, Attn.: Permit number TE01724B-0.

*U.S. mail:* Brian Powell, Wildlife Biologist, South Florida Ecological Services Field Office, Attn: Permit number TE01724B-0, U.S. Fish and Wildlife Service, 1339 20th Street, Vero Beach, FL 32960-3559.

*In-person drop-off:* You may drop off information during regular business hours at the above office address.

Before including your address, phone number, e-mail address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Next Steps**

The Service will evaluate the HCP and comments submitted thereon to determine whether the applications meet the requirements of section 10(a) of the Act. The Service will also evaluate whether issuance of the section 10(a)(1)(B) ITP complies with section 7 of the Act by conducting an intra-Service section 7 consultation. The results of this consultation, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP. If it is determined that the requirements of the Act are met, the ITP will be issued.

**Authority**

We provide this notice under Section 10 of the Endangered Species Act (16 U.S.C. 1531 et seq.) and NEPA regulations (40 CFR 1506.6).

**Dated: May 6, 2013.**\_\_\_\_\_

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**Larry Williams,  
Field Supervisor,  
South Florida Ecological Services Office.**

**[FR Doc. 2013-11163 Filed 05/09/2013 at 8:45 am; Publication Date: 05/10/2013]**